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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,350	11/13/2003	Steven Winter	FSP0036	1428

7590 06/28/2005
Charles A. Mirho
112 W. 37th St.
Vancouver, WA 98660

EXAMINER

CHIN SHUE, ALVIN C

ART UNIT PAPER NUMBER

3634

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/712,350	Applicant(s) WINTER, STEVEN	
	Examiner Alvin C. Chin-Shue	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 10 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

S.d

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Romano. Romano shows a first shelf 27, a first rail 28, a second shelf 24 and a second rail 22.

Claim 11 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brewster.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romano. To extend the flange (top flange) of rail 28 to protrude outwardly of the gap of rail 22 to enhance its supporting surface, would have been an obvious mechanical expediency.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romano, as applied to claim 4 above, and further in view of Wyse '568. Romano

shows the claimed scaffold with the exception of the post. Wyse shows posts 20 for releasable securing a shelf to his frame rail. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rail 22 of Romano to comprise a post, as taught by Wyse, to enable releasable securement of his shelf to his rail.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romano in view of Pierce. Romano shows the claimed scaffold with the exception of the lock. Pierce shows a lock comprising a spring and pin lock. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Romano to comprise a lock, as taught by Pierce, for locking his shelf in a desired position.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romano in view of MacDonald. Romano shows the claimed scaffold with the exception of the transition. MacDonald shows shelves B,C with a transition there between. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rails of Romano to comprise a transition, as taught by MacDonald, to enable a smooth transition.

Claims 7-9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster in view of Moller and Benbow. Brewster shows the

claimed scaffold with the exception of the locking means. Moller shows a caster locking means at 31,23,13,12,29. Benbow teaches direct engagement of a caster wheel with the tip of a rod 24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brewster to comprise a rod locking means, as taught by Moller, for locking his casters, and for the tip of the rod, as taught by Moller, to be used as a braking means, as taught by Benbow, to enable direct braking.

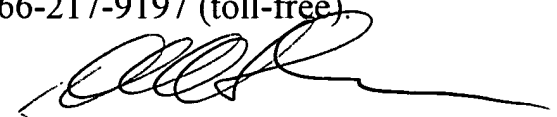
Claims 12-15 objected to under 37 CFR 1.75 as being a substantial duplicate of claims 7-10. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634

ACS